

**REMARKS**

Claims 1-14 are pending in this application. Claims 15-26 are withdrawn. Claim 1, 5 and 6 are amended. In the Office Action, claims 1-2, 4-7, 11-13 are rejected over prior art. Reconsideration of the rejection is respectfully requested.

Initially, Applicants acknowledge and thank the Examiner for indicating the allowability of claims 3, 8-10, and 14.

**CLAIM REJECTION UNDER 35 U.S.C. §102**

Claims 1, 5, 11, and 13 are rejected under 35 U.S.C. § 102(b), as being anticipated by Ogura. (U.S. Patent 6,177,372). The rejection is respectfully traversed.

The Examiner alleges that Ogura discloses all the elements recited in claims 1, 5, 11, and 13 as detailed on pages 2 of the office action. Specifically, the Examiner alleges that Ogura at column 4, line 42 to column 6, line 6 and Figs. 2e-6a, discloses all the limitations of claims 1, 5, 11, and 13.

Amended claim 1 recites in part that “forming a plurality of charge storage spacers on a lower sidewall of the plurality of first gates so that an upper sidewall of a given first gate is exposed by a given charge storage spacer.” In other words, a charge storage spacer is formed to expose the upper sidewall of a first gate. Ogura discloses that an ONO layer 230 is formed to cover the whole sidewall and the top surface of a polysilicon layer 245.

For at least the reasons given above, Applicants submit that Ogura fails to teach or suggest all the limitations of claims 1, 5, 11, and 13. Therefore, claims 1, 5, 11, and 13 are patentable over the Examiner’s cited reference.

**CLAIM REJECTION UNDER 35 U.S.C. §103**

Claims 2, 4 and 12 are rejected under 35 U.S.C. §103(a) as being unpatentable over Ogura. This rejection is also respectfully traversed.

As discussed above, Ogura fails to disclose all the limitation of base claim 1 as argued above with respect to the Examiner's §102 rejection, therefore, claims 2, 4 and 12, which are dependent on claim 1, are also patentable for the same reasons given above. Reconsideration and withdrawal of the rejection is also respectfully requested.

Claims 1-2, 4-7 and 11-13 are rejected under 35 U.S.C. §103(a) as being unpatentable over the article by Chang. This rejection is also respectfully traversed.

The Examiner alleges that the article by Chang discloses a first gate, a charge storage spacer, and a second gate covering the charge storage gate. The Examiner further alleges that "[t]he shape of the charge storage layer ... is reasonable to one of ordinary skilled in the art." Applicants disagree.

The Chang article discloses that a SONOS memory device is fabricated by forming a select gate oxide on a substrate, and then followed by a deposition of a first polysilicon. The first polysilicon is patterned to form a select gate. An ONO stacked layer is formed on the resulting pattern, and then a second polysilicon layer is deposited. A sidewall gate is formed by etching back the second polysilicon layer. The sidewall gate is formed by a self-aligned etch of the second polysilicon layer. In other words, the sidewall gate is self-aligned to the second polysilicon layer.

Even assuming that the sidewall gate is a second gate, no where does the Chang article teach or suggest that the sidewall gate is self-aligned with the charge storage spacers. As discussed above, the sidewall gate is formed by a self-aligned etch of the second polysilicon layer. A polysilicon layer cannot be a charge storage layer. Therefore, contrary to the

Examiner's allegation, "the shape of the charge storage layer and the second gate suggest anisotropic etching" is **not** reasonable to one of ordinary skill in the art.

For at least the reasons given above, Applicants submit that claims 1-2, 4-7, and 11-13 are patentable over the Examiner's cited art.

**CONCLUSION**

In view of the above remarks, reconsideration of the rejections and allowance of claims 1-2, 4-7, and 11-13 are respectfully requested.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John A. Castellano at the telephone number of the undersigned below. If the Examiner believes that a personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (703) 668-8000.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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By

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